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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,931	03/14/2002	Oliver Bremer	944-004.002/NC 16334 US	2705
4955 7590 12/19/2008 WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468				
EXAMINER HENNING, MATTHEW T				
ART UNIT		PAPER NUMBER		
2431				
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12/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/099,931

Applicant(s)

BREMER, OLIVER

Examiner

MATTHEW T. HENNING

Art Unit

2431

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-15,17-22,24-28,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-15,17-22,24-28,33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1 This action is in response to the communication filed on 9/30/2008.

2 **DETAILED ACTION**

3 ***Response to Arguments***

4 Applicant's arguments filed 9/30/2008 have been fully considered and are not found
5 persuasive.

6 Regarding the applicant's argument that the combination of references relied upon in
7 rejecting the claims does not solve the same problem which the applicant set out to solve, the
8 examiner does not find the argument persuasive. The fact that applicant has recognized another
9 advantage which would flow naturally from following the suggestion of the prior art cannot be
10 the basis for patentability when the differences would otherwise be obvious. See *Ex parte*
11 *Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Further, whether the prior art solved
12 the supposed "problem in the art" is not relevant. What is relevant is whether the prior art
13 anticipated or rendered the claims obvious. In this case, the prior art renders the claim language
14 obvious. If the applicant does not believe that the problem in the art would be solved by the
15 combination of references applied below, then perhaps the applicant should carefully review the
16 claim language to ensure that the heart of the invention is being accurately claimed.

17 Regarding the applicant's argument that the combination of prior art relied upon by the
18 examiner does not have peer-to-peer consumption...without requiring assistance from the
19 network infrastructure, the examiner does not find the argument persuasive. Applicant's
20 arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that
21 the claims define a patentable invention without specifically pointing out how the language of
22 the claims patentably distinguishes them from the references. In response to applicant's

arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the applicant has argued that each reference individually does not teach a certain claim feature (i.e. "consuming content by a mobile phone recipient without requiring assistance from network infrastructure in the wireless network"). However, no reference alone has been relied upon as teaching this limitation. Rather, it is the combination of the references that has shown this limitation to be obvious. As such, because the applicant has provided no argument regarding the combination, as discussed in the rejection, the examiner does not find the argument persuasive.

Because the examiner does not find the arguments, with regards to the rejection of the claims under 35 USC 103(a) to be persuasive, the examiner has maintained the rejection presented below.

All objections and rejections not set forth below have been withdrawn.

Claims 1, 3-8, 10-15, 17-22, 24-28, and 33-34 have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-4, 6-8, 10-11, 13-15, 17, 19-21, 27-28, and 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Safadi et al. (US Patent Application Publication

Number 2002/0147686) hereinafter referred to as Safadi, and further in view of Bloebaum et al. (US Patent Number 7,149,534) hereinafter referred to as Bloebaum, and further in view of Hans-Jörg Vögel et al. ("GSM Switching, Services and Protocols: Second Edition") hereinafter referred to as Vögel.

Regarding claims 1 and 28, Safadi disclosed a method comprising: forwarding peer-to-peer content between two devices (Safadi Fig. 1 Elements 10 and 30) communicating in a wireless network via a network infrastructure (Safadi Fig. 1 Element 20 and paragraph [0032]), where a wireless sender (10) encrypts protected content or content encryption key (Safadi Paragraphs [0036] - [0037]) and a wireless recipient (30) consumes the protected content without requiring content personalization assistance from the network infrastructure of the wireless network (See Safadi Paragraph 0044), and that the receiver device was a mobile phone (Safadi Paragraph [0033]), but Safadi failed to specifically teach that the sender device was a mobile phone; that the sender sends an initial message having an international mobile equipment identity, a mobile phone sender name, or mobile station international integrated subscriber digital network number. However, Safadi did state that the "transmitting device of the present invention includes, but is not limited to the Personal Versatile Recorder (10) as described hereinabove...or any device that can output information in the form of a digital or analog signal".

Bloebaum teaches a system wherein, through a cellular network, mobile phones are able to communicate content, such as applications or music, between the mobile phones (Bloebaum Fig. 1 and Col. 4 Lines 59-61).

It would have been obvious to the ordinary person skilled in the art at the time of invention to have employed the teachings of Bloebaum in the content sharing system of Safadi

1 by implementing the transmitting device as a cell phone. This would have been obvious because
2 the ordinary person skilled in the art would have been motivated to allow multimedia content to
3 be shared between friends using their cell phones.

4 Vögel teaches that in GSM, which was a very well know and widely utilized mobile
5 communications standard at the time of invention, communicating devices register with the
6 network by sending the International Mobile Station Equipment Identity (IMEI) (Vögel Page 31
7 Section 3.2.1).

8 It would have been obvious to the ordinary person skilled in the art at the time of
9 invention to have employed the teachings of Vögel in the content sharing system of Safadi and
10 Bloebaum, by having each cell phone provide its IMEI to the network in "an initial message".
11 This would have been obvious because the ordinary person skilled in the art would have been
12 motivated to follow an widely accepted standard as well as to recognize obsolete, stolen, or
13 nonfunctional equipment in the network.

14 Regarding claim 8, Safadi disclosed a wireless network comprising: at least two wireless
15 terminals (Safadi Fig. 1 Elements 10 and 30) and a network infrastructure (20) for forwarding
16 peer-to-peer content from one wireless terminal (10) to another wireless terminal (30) (Safadi
17 Fig. 1 Element 20 and Paragraph [0032]); the at least two wireless terminals having a peer-to-
18 peer forwarding/reception of digital right management protected content module configured for
19 **either** encrypting **or** consuming protected content without content personalization assistance
20 from the network infrastructure (See Safadi Paragraphs 0032, 0036-0037, and 0044), and that the
21 receiver terminal was a mobile phone (Safadi Paragraph [0033]), but Safadi failed to specifically
22 teach that the sender device was a mobile phone; that the peer-to-peer forwarding/reception of

digital rights management protected content module of each terminal is configured for either sending or receiving an initial message having an international mobile equipment identity, a mobile phone sender name, or mobile station international integrated subscriber digital network number. However, Safadi did state that the "transmitting device of the present invention includes, but is not limited to the Personal Versatile Recorder (10) as described hereinabove...or any device that can output information in the form of a digital or analog signal".

Bloebaum teaches a system wherein, through a cellular network, mobile phones are able to communicate content, such as applications or music, between the mobile phones (Bloebaum Fig. 1 and Col. 4 Lines 59-61).

It would have been obvious to the ordinary person skilled in the art at the time of invention to have employed the teachings of Bloebaum in the content sharing system of Safadi by implementing the transmitting device as a cell phone. This would have been obvious because the ordinary person skilled in the art would have been motivated to allow multimedia content to be shared between friends using their cell phones.

Vögel teaches that in GSM, which was a very well know and widely utilized mobile communications standard at the time of invention, communicating devices register with the network by sending the International Mobile Station Equipment Identity (IMEI) (Vögel Page 31 Section 3.2.1).

It would have been obvious to the ordinary person skilled in the art at the time of invention to have employed the teachings of Vögel in the content sharing system of Safadi and Bloebaum, by having each cell phone provide its IMEI to the network in "an initial message". This would have been obvious because the ordinary person skilled in the art would have been

1 motivated to follow an widely accepted standard as well as to recognize obsolete, stolen, or
2 nonfunctional equipment in the network.

3
4 Regarding claim 15, Safadi disclosed a wireless terminal (10 or 30) comprising: one or
5 more modules for operating in a wireless network having another wireless terminal (10 or 30)
6 and a network infrastructure (20) for forwarding peer-to-peer content from the wireless terminal
7 (10) to the other wireless terminal (30) (Safadi Fig. 1 Element 20 and paragraph [0032]); a peer-
8 to-peer forwarding/reception of digital rights management protected content module configured
9 for either encrypting, consuming, or a combination thereof, protected content without content
10 personalization assistance from the network infrastructure (See Safadi Paragraphs 0032, 0036-
11 0037, 0042 and 0044) and that the receiver terminal was a mobile phone (Safadi Paragraph
12 [0033]), but Safadi failed to specifically teach that the sender device was a mobile phone; that
13 the peer-to-peer forwarding/reception of digital rights management protected content module of
14 each terminal is configured for either sending or receiving an initial message having an
15 international mobile equipment identity, a mobile phone sender name, or mobile station
16 international integrated subscriber digital network number. However, Safadi did state that the
17 "transmitting device of the present invention includes, but is not limited to the Personal Versatile
18 Recorder (10) as described hereinabove...or any device that can output information in the form
19 of a digital or analog signal".

20 Bloebaum teaches a system wherein, through a cellular network, mobile phones are able
21 to communicate content, such as applications or music, between the mobile phones (Bloebaum
22 Fig. 1 and Col. 4 Lines 59-61).

1 It would have been obvious to the ordinary person skilled in the art at the time of
2 invention to have employed the teachings of Bloebaum in the content sharing system of Safadi
3 by implementing the transmitting device as a cell phone. This would have been obvious because
4 the ordinary person skilled in the art would have been motivated to allow multimedia content to
5 be shared between friends using their cell phones.

6 Vögel teaches that in GSM, which was a very well know and widely utilized mobile
7 communications standard at the time of invention, communicating devices register with the
8 network by sending the International Mobile Station Equipment Identity (IMEI) (Vögel Page 31
9 Section 3.2.1).

10 It would have been obvious to the ordinary person skilled in the art at the time of
11 invention to have employed the teachings of Vögel in the content sharing system of Safadi and
12 Bloebaum, by having each cell phone provide its IMEI to the network in "an initial message".
13 This would have been obvious because the ordinary person skilled in the art would have been
14 motivated to follow an widely accepted standard as well as to recognize obsolete, stolen, or
15 nonfunctional equipment in the network.

16
17 Regarding claim 3, Safadi, Bloebaum and Vögel disclosed that the mobile phone
18 recipient sends a device certificate having a public key to a wireless sender (See Safadi
19 Paragraphs 0036 and 0041).

20 Regarding claims 4, 11, 17, and 34, Safadi, Bloebaum and Vögel disclosed that that the
21 mobile phone sender personalizes the protected content or content encryption key for the mobile
22 phone recipient (See Safadi Paragraphs 0036-0037 and 0044).

Regarding claims 6, 13, and 20, Safadi, Bloebaum and Vögel disclosed that the mobile phone recipient verifies forwarded protected content received from the mobile phone sender by: verifying the device certificate of the mobile phone sender (See Safadi Paragraph 0043); and applying a private key of the mobile phone recipient in order for the recipient to consume the protected content (See Safadi Paragraphs 0036-0037 and 0044).

Regarding claims 7, 14, and 21, Safadi, Bloebaum and Vögel disclosed that the protected content is digital rights management protected content (See Safadi Paragraph 0034).

Regarding claims 10, and 19, Safadi, Bloebaum and Vögel disclosed that the peer-to-peer forwarding/reception of DRM protected content module of the mobile phone recipient sends a device certificate having a public key to the mobile phone sender (See Safadi Paragraphs 0036-0037 and 0042).

Regarding claim 27, Safadi, Bloebaum and Vögel disclosed that the initial message includes a device certificate to the mobile phone recipient (See Safadi Paragraph 0042).

Claims 5, 12, 18, 22, 26, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safadi, Bloebaum and Vögel as applied to claims 4, 8, and 17 respectively above, and further in view of Mott et al. (US Patent Number 6,170,060) hereinafter referred to as Mott.

Regarding claims 5, 12, and 18, Safadi, Bloebaum and Vögel disclosed that the steps for personalizing include: encrypting the content or content encryption key using a public key of the mobile phone recipient (See Safadi Paragraphs 0036-0037); and sending the protected content or content encryption key and a device certificate of the mobile phone sender to the wireless

1 recipient (See Safadi Paragraphs 0042 and 0044), but failed to disclose signing encrypted content
2 or content encryption key using a private key of the mobile phone sender, or sending the
3 protected content with a device certificate of the sender.

4 Mott teaches that a digital signature should be appended to downloaded content in order
5 to be able to verify the data (See Mott Col. 11 Paragraph 2).

6 It would have been obvious to the ordinary person skilled in the art at the time of
7 invention to employ the teachings of Mott in the content distribution system of Safadi, Bloebaum
8 and Vögel by including a signature of the content with the content. This would have been
9 obvious because the ordinary person skilled in the art would have been motivated to provide a
10 means for the recipient to verify the integrity of the data. Further, it was well known in the art at
11 the time of invention that the certificate of a digital signor could be included with the signed
12 object for transmission and therefore it would have been obvious to the ordinary person skilled in
13 the art at the time of invention to have done so.

14 Regarding claim 22, the combination of Safadi, Bloebaum, Vögel and Mott disclosed a
15 method comprising: forwarding a protected content or content encryption key from a first mobile
16 phone to a second mobile phone (Safadi Fig. 1 Element 20 and paragraph [0032] and Bloebaum
17 Col. 4 Lines 59-61) in a cellular network having a network infrastructure (Safadi Fig. 1 Element
18 20 and paragraph [0032]); sending a digital rights management device certificate containing a
19 public digital rights management key from the second mobile phone to the first mobile phone
20 (See Safadi Paragraph 0041); verifying the public digital rights management key by the first
21 mobile phone (See Safadi Paragraph 0041); personalizing digital rights management content or
22 content encryption key by encryption using a public key of the second mobile phone (See Safadi

Paragraphs 0036-0037 and 0044); signing encrypted digital rights management content or content encryption key using a private digital rights management key of the first mobile phone (See the rejection of claim 5 above and Mott Col. 11 Paragraph 2); sending encrypted and signed digital rights management content or content encryption key together with a digital rights management device certificate of the first mobile phone from the first mobile phone to the second mobile phone (See the rejection of claim 5 above and Mott Col. 11 Paragraph 2); verifying the digital rights management device certificate of the first mobile phone by the second mobile phone (See Safadi Paragraph 0043); and applying a private digital rights management key of the second mobile phone, if the private digital rights management key of the first mobile phone is verified, in order for the second mobile to consume the protected content without content personalization assistance from the network infrastructure of the cellular network(See Safadi Paragraph 0044).

Regarding claim 26, see Safadi Paragraph 0042.

Regarding claim 33, Safadi, Bloebaum, Vögel and Mott disclosed that the peer-to-peer forwarding/reception of DRM protected content protocol module of a wireless sender sends an initial message having either an international mobile equipment identity, a sender name or mobile station international Integrated subscriber digital network number to a wireless recipient (See Safadi Paragraph 0036).

Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Safadi, Bloebaum, Vögel and Mott as applied to claim 22 above, and further in view of Gustafsson (US Patent Number 6,424,841).

Safadi, Bloebaum, Vögel and Mott disclosed sending encrypted and signed digital rights management content to the first terminal and verifying the same in the first terminal (See the rejection of claim 22 above), but failed to disclose sending confirmation or error messages. However, Safadi, Bloebaum, Vögel and Mott did disclose that the communications were between cell phones in a cellular network (Bloebaum Fig. 1 and Col. 4 Lines 59-61).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW T. HENNING whose telephone number is (571)272-3790. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew T Henning/
Examiner, Art Unit 2431

/Christopher A. Revak/
Primary Examiner, Art Unit 2431